

REMARKS

The Examiner rejected claims 1-4 and 7-11. In particular, claims 1, 2, 4, 7-9, and 11 stand rejected as being anticipated (§102) by U.S. Patent No. 5,529,357 to Hoffman (“Hoffman patent”). Claims 3 and 10 stand rejected as being unpatentable (§103) over the Hoffman patent.

I. §102 Rejections

The Examiner rejected claims 1, 2, 4, 7-9, and 11 as being anticipated by the Hoffman patent. In order for a reference to anticipate the invention, each claimed element must be disclosed in the reference. As discussed below, independent claims 1 and 8, and their dependent claims, are not anticipated by the Hoffman patent because the Hoffman patent does not disclose a forearm brace for hand held implements.

A. Claims 1 and 8 Are Not Anticipated By The Hoffman Patent Because The Hoffman Patent Does Not Disclose a Forearm Brace For Hand Held Implements

Independent claims 1 and 8 are apparatus claims for a hand held gardening implement. See claims 1,8 (“[a] hand held gardening implement”). The hand held gardening implement of claims 1 and 8 requires a brace having a forearm engaging surface. See claims 1,8 (“a brace attached to said frame member adjacent said distal end of said frame member, wherein said brace has a forearm engaging surface”). The Hoffman patent does not disclose a forearm brace for hand held implements.

1. Description Of The Hoffman Patent

The Hoffman patent separately addresses two types of tools: long-handled tools and hand tools. That is, Hoffman describes an embodiment for “Long-Handled Tools” and an embodiment for “Hand Tools.” See Hoffman patent, cols. 6, 9.

First, for long-handled tools, the Hoffman patent discloses a forearm securing means. The forearm securing means has a pair of straps designed to receive, wrap around and secure a portion of the forearm of the user. See Hoffman patent, col. 6, lines 18-21 ("[t]his forearm securing means **24** is further provided with a pair of flexible straps **26** and **26'**. These straps **26** and **26'** are designed to receive, wrap around and secure a portion of the forearm of the user.").

Second, the Hoffman patent discloses a separate embodiment for hand tools:

[W]ith reference to FIGS. **10-12**, a leveraging assembly **110** for a tool **2**, particularly a hand tool, such as a hand brush, trowel, sanding block or the like requiring repetitive motion and resulting in strain to the wrist and hand muscles and joints, will [] be described.

[S]hown in FIG. **12**, a leveraging assembly **130** for use with a hand trowel **4** or similarly handled tool will [] be described.

See Hoffman patent, col. 9, lines 51-55 and col. 10, lines 12-14 (emphasis added).

In particular, for hand tools, the Hoffman patent discloses a wrist securing means not a forearm securing means:

The assembly for the hand tool is provided with a wrist securing means **112** having a pair of straps **114** and **114'** that wrap around and secure a portion of the user's wrist.

The wrist securing means **132** is further comprised of a pair of flexible straps **136** and **136'** which can be adjusted to accommodate the dimensions of the user's wrist.

Hoffman patent, col. 9, lines 63-66, and col. 10, lines 14-19 (emphasis added). Thus, for hand tools, the Hoffman patent expressly teaches the use of a wrist securing means that has a pair of straps that wrap around and secure a portion of the user's wrist.

2. Claims 1 And 8 Are Not Anticipated By Hoffman

Claims 1 and 8 of the present invention are directed to a "hand held gardening implement" that has a forearm brace. See claims 1,8 ("A hand held gardening implement, comprising . . . a brace attached to said frame member adjacent said distal end of said frame member, wherein said brace has a forearm engaging surface") (emphasis added).

Claims 1 and 8 are not anticipated by the Hoffman patent because it does not disclose a hand tool with a forearm brace. In fact, the Hoffman patent teaches away from using a forearm brace with a hand tool by (1) expressly teaching the use of a wrist securing means with a hand tool and (2) limiting the use of a forearm securing means to long-handled tools.

Consequently, the Hoffman patent does not anticipate the present invention as claimed in claims 1 and 8.

B. Claims 2, 4, 7, 9 and 11 Are Not Anticipated By the Hoffman Patent

Because claims 2, 4, and 7, which depend from claim 1, incorporate all the limitations of claim 1, the above arguments apply a fortiori to this ground for rejection. Because Claims 9 and 11, which depend from claim 8, incorporate all the limitations of claim 8, the above arguments apply a fortiori to this ground for rejection. Thus, claims 2, 4, 7, 9 and 11 are not anticipated by the Hoffman Patent.

II. Claims 3 and 10 Are Not Made Obvious By the Hoffman Patent

The Examiner rejected claims 3 and 10 as unpatentable over the Hoffman patent. Claim 3, which depends from claim 1, incorporates all the limitations of claim 1. Claim 10, which depends from claim 8, incorporates all the limitations of claim 8. It is respectfully submitted that claims 3 and 10 are not made obvious by the Hoffman patent because the combination claimed in claims 3 and 10 is not suggested by the Hoffman patent. In fact, the Hoffman patent teaches away from such a combination. The Hoffman patent does not teach the use of a forearm brace with hand tools. As discussed above, the Hoffman patent teaches the use of a forearm securing means for long-handled tools, but teaches the use of a wrist securing means for hand tools. Consequently, the Hoffman patent would not lead one of ordinary skill to make the combination provided for in either claims 3 or 10 of the present invention. Thus, claims 3 and 10 are patentable over the Hoffman patent.

III. Amendments to Claims 9-11

Claims 9-11 are amended to correct inadvertent errors. Prior to the amendments, claims 9-11 read to depend from claim 6. As amended, claims 9-11 read to depend from claim 8. These amendments are not made to overcome prior art but rather are made only to correct an inadvertent oversight.

CONCLUSION

Applicant has pointed out the clear lack of anticipation of the claims by the Hoffman patent and has pointed out that the claims are patentable over the Hoffman patent.

Consequently, the claims 1-4 and 7-11 appear to be allowable and a Notice of Allowance is requested.

Respectfully submitted,

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